



**MILPITAS CITY COUNCIL MEETING AGENDA
SEPTEMBER 6, 2005**

**6:00 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)
455 E. CALAVERAS BOULEVARD**

SUMMARY OF CONTENTS

- I. ROLL CALL (6:00 p.m.)**
- II. ADJOURN TO CLOSED SESSION**
 - CONFERENCE WITH LABOR NEGOTIATORS – COLLECTIVE BARGAINING**
(Pursuant to Government Code Section 54957.6)
City Negotiators: Ed Kreisberg, Carmen Valdez
Employee Organizations: Police Officers Association (MPOA)
Under Negotiation: Wages, Hours, Benefits, Working Conditions
 - CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
(Pursuant to Subdivision (a) of Government Code Section 54956.9)
City of Milpitas v. Turner Construction et al., Santa Clara County Superior Court Case No. 103CV814946 consolidated with Case No. 103CV008400
 - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**
(Pursuant to Government Code Subdivision (a) of Section 54956.9)
Redevelopment Agency of the City of Milpitas v. Winsor et al.
Santa Clara County Superior Court Case No. 105CV043954
 - CONFERENCE WITH REAL PROPERTY NEGOTIATORS**
(Pursuant to Government Code Section 54956.8)
Property: 110 Meadowland Dr., Milpitas, California
Agency Negotiators: City of Milpitas (Steve Mattas). Negotiating Party: Williamson / Wilson.
Under negotiation: Terms and Conditions for Disposition of property
 - CONFERENCE WITH REAL PROPERTY NEGOTIATORS**
(Pursuant to Government Code Section 54956.8)
Property: Calvary Assembly of God - APN Nos. 092-37-044, 045 and 046
Agency negotiators: Greg Armendariz
Negotiating Parties: City of Milpitas and Calvary Assembly of God Church
Under Negotiation: Terms and Conditions for Acquisition of Property
- III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote on abstention of each member present**
- IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)**
- V. APPROVAL OF MINUTES (August 16, 2005)**
- VI. SCHEDULE OF MEETINGS**

VII. PRESENTATIONS

Proclamations

Patriot Day – September 11, 2005

Pollution Prevention Week, September 19-25, 2005

Commendation

Eagle Scout Jonathan W. Chu

VIII. CITIZENS FORUM

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

IX. ANNOUNCEMENTS

X. ANNOUNCEMENT OF CONFLICT OF INTEREST

XI. APPROVAL OF AGENDA

XII. CONSENT CALENDAR (Items with Asterisks)

XIII. PUBLIC HEARINGS

- 1. Receive Protests To Changed Water, Recycled Water, And Sewer Rate Adjustments (Staff Contact: Darryl Wong, 586-3345)**
- 2. Approve a Certificate of Compliance to Legalize Five Undeveloped Hillside Lots Located north of El Camino Higuera, APN 029-02-015, Applicant: Phyllis Anderson (Staff Contact: Cindy Hom, 586-3284)**
- 3. Consideration of Extension of Urgency Moratorium on the Establishment and Operation of Medical Marijuana Dispensaries to Become Effective Immediately (Staff Contact: Steve Mattas, 586-3040)**

XIV. UNFINISHED BUSINESS

- 4. Receive Status Report On Farmers' Market Location Search (Staff Contact: Cindy Maxwell, 586-3282)**

XV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor

RA2. Roll Call

RA3. Approval of Minutes (August 16, 2005)

RA4. Approval of Agenda and Consent Calendar

RA5. Receive Progress Report on Library, Midtown East and West Parking Garages (Project Nos. 8162, 8161, & 8170) (Staff Contact: Mark Rogge, 586-3403)

***RA6. Accept Fiscal Year 2005-2006 Final Budget and the 2005-2010 Final Capital Improvement Program (Staff Contact: Emma Karlen, 586-3145)**

***RA7. Approve Fiscal Year 2004-05 Year-End Budget Adjustments and the Closure of Inactive Fund (Staff Contact: Emma Karlen, 586-3145)**

RA8. Agency Adjournment

XVI. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES

City Council

- 5. Update On City Manager and New Police Chief Recruitment (Councilmember Polanski, 586-3024)**

XVII. NEW BUSINESS

- * 6. Appropriate Funding for Capital Improvement Plan and Accept Valley Transit Authority Grant for Transit Area Plan (Staff Contact: Dennis Carrington 586-3275)**

XVIII. ORDINANCES

- * 7. Waive Reading Beyond the Title and Adopt Ordinance No. 239.4 Of Title XI Chapter 16 Sections 16-2, 16-6, And 16-16 Of The Milpitas Municipal Code - Stormwater and Urban Runoff Pollution Control (Staff Contact: Darryl Wong, 586-3345)**

XIX. RESOLUTIONS (None)

XX. BIDS AND CONTRACTS

- * 8 Award the Bid for a 10 Wheeled Dump Truck (Staff Contact: Chris Schroeder, 586-3161)**
- * 9. Award the Bid for a Gas Powered Jackhammer (Staff Contact: Chris Schroeder, 586-3161)**
- * 10. Award the Bid for a Gas Powered Concrete Saw (Staff Contact: Chris Schroeder, 586-3161)**
- * 11. Award the Bid for a Paint Mixer (Staff Contact: Chris Schroeder, 586-3161)**
- * 12. Award the Bid for Annual Vehicle Purchases (Staff Contact: Chris Schroeder, 586-3161)**
- * 13. Appropriate Funds and Award the Bid for Monitors (Staff Contact: Chris Schroeder, 586-3161)**
- * 14. Authorize the City Manager To Execute Agreement Amendment: HMM Engineers, South Park Victoria Drive Pavement Rehabilitation, Project No. 4225 (Staff Contact: Doug DeVries, 586-3313)**
- * 15. Approve Authorization For Contract: Ed Fairley's Quality Referee Association (Staff Contact: Aaron Bueno, 586-3226)**
- * 16. Approve Authorization For Contract: South Bay Metro Officials Association (Staff Contact: Aaron Bueno, 586-3226)**

- * 17. **Reject Bids and Authorize the Re-Advertisement for Bid Proposals: Sewer Deficiency and Structural Correction Program, Project No. 6073, (Staff Contact: Doug DeVries, 586-3313)**
- * 18. **Approve Plans And Specifications And Authorize the Advertisement for Bid Proposals: Montague Widening - Centre Pointe Sidewalk Project, Project No. 4179 (Staff Contact: Greg Armendariz, 586-3317)**

XXI. CLAIMS AND DEMANDS

- * 19. **Approve Payment Requests: Miscellaneous Vendors /Contractors (Staff Contact: Chris Schroeder, 586-3161)**
- * 20. **Emergency Repairs to the Pump Drive at the Gibraltar Pump Station (Staff Contact: Chris Schroeder, 586-3161)**

XXII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, SEPTEMBER 20, 2005, AT 7:00 P.M.**

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT COMMISSION at the

City Attorney's office at Milpitas City Hall, 455 E. Calaveras Boulevard, Milpitas, CA 95035

E-mail: rprioroda@ci.milpitas.ca.gov / Fax: 408-586-3030 / Phone: 408-586-3040

A free copy of the Open Government Ordinance is available from the City Clerk's Office or by visiting City's website www.ci.milpitas.ca.gov, select Open Government Ordinance under News Features.

BECOME A CITY COMMISSIONER!

Currently, Milpitas is recruiting for the following Commissions:

Economic Development Commission (rep. for Hotel Industry)

Recycling & Source Reduction Advisory Commission

Public Art Committee

Youth Advisory Commission

Bicycle Transportation Advisory Commission

Applications are available online at www.ci.milpitas.ca.gov and outside the Milpitas City Council Chambers. Contact the City Clerk's Office (586-3003) for information.

AGENDA REPORTS

XIII. PUBLIC HEARINGS

1. Receive Protests To Changed Water, Recycled Water, And Sewer Rate Adjustments (Staff Contact: Darryl Wong, 586-3345)

Background: Water, recycled water and sewer rate adjustments were introduced and adopted by the City Council at its August 2, 2005 and August 16, 2005 meetings respectively. The rates were adopted contingent upon compliance with Proposition 218 protest hearing requirements. A total of 15,633 letters were sent informing property owners of the changed rates and protest process. Under Proposition 218, if more than 50%+1 of the property owners protest a fee increase, the increase would be rendered invalid.

Discussion: The changed rates are shown in the tables below. This public hearing is conducted to receive verbal and written protests on the changed rates. The total number of protests will be counted and if it exceeds 50%+1 of the total notifications sent (7,817 or more), then the changed rates would not be imposed.

2005/06 and 2006/07 Water Rates

(FY 2005/06 - For meters read on or after September 19, 2005)

(FY 2006/07 - For meters read on or after July 24, 2006)

Water and Recycled Water Quantity Charges	Current per hundred cubic feet	2005/2006 per hundred cubic feet	2006/2007 per hundred cubic feet
Residential 0-20 hcf	\$1.29	\$1.40	\$1.49
> 20 hcf	\$2.71	\$2.93	\$3.13
Commercial, Industrial, and Institutional	\$2.95	\$3.19	\$3.40
Recycled Industrial Process	\$1.48	\$1.60	\$1.70
Recycled Dual-Plumb	\$1.48	\$1.60	\$1.70
Potable City	\$1.15	\$1.10	\$1.12
Potable irrigation all others	\$3.37	\$3.65	\$3.89
Recycled irrig formerly wells	\$0.63	\$0.68	\$0.68
Recycled agric	\$0.27	\$0.32	\$0.32
Recycled irrig city	\$0.55	\$0.55	\$0.61
Recycled irrig all others	\$2.70	\$2.92	\$3.11
Santa Clara County (Ed Levin Park)	\$1.16	\$1.02	\$1.02
Bimonthly Fixed charges; typical increase for all other sizes (not shown)			
Residential 5/8 inch meter	\$16.34	\$17.68	\$18.86
Non-residential ¾ inch meter	\$18.33	\$19.83	\$21.16
Residential Fire Service 2"	\$26.13	\$28.27	\$30.16
Non-Resid. Fire Service 2"	\$27.63	\$29.90	\$31.90

2005/06 and 2006/07 Sewer Rates

(FY 2005/06 - For meters read on or after September 19, 2005)

Sewer Quantity Charges	Current Per hundred cubic feet	Proposed 2005/2006 per hundred cubic feet	Proposed 2006/2007 per hundred cubic feet
Single Family bimonthly per dwelling unit	\$50.25	\$54.77	\$59.70
Multi-Family bimonthly per dwelling unit	\$36.48	\$39.49	\$43.14
Mobile Home bimonthly per dwelling unit	\$22.76	\$24.57	\$26.88
Commercial categories per hcf	\$1.80-\$3.44	\$2.06-\$3.50	\$2.20-\$3.93
Industrial categories per hcf	\$0.01-\$4.89	\$0.02-\$3.46	\$0.02-\$3.91
Institutional categories per hcf	\$1.93-\$2.30	\$2.13-\$2.75	\$2.29-\$2.91
Fixed charges			
Non-Residential bimonthly	\$8.48	\$9.24	\$10.08

Recommendation:

1. Take public comment and receive protests to the changed rates.
 2. Close the public hearing for protests to the changed rates consistent with Proposition 218's public notice requirements.
 3. Receive summary from staff on quantity of oral and written protests received. If quantity of protests exceeds the minimum number necessary, the changed rates shall not be imposed.
2. **Approve a Certificate of Compliance to Legalize Five Undeveloped Hillside Lots Located north of El Camino Higuera, APN 029-02-015, Applicant: Phyllis Anderson (Staff Contact: Cindy Hom, 586-3284)**

Background: This is a request for a Certificate of Compliance for the five parcels located east of El Camino Higuera Road in the Hillside Area of the City. The five parcels are identified as lots 51-55 on the exhibit included in the Council's agenda packet materials. Lots 56-58 and the lot line adjustment designated as "59" are shown for reference only and are not part of this Certificate of Compliance application.

In 1938, the subject site, consisting of 18.52 acres was divided into five parcels and conveyed to five individuals. In 1951, all five parcels were purchased by one property owner. In 1964, all five parcels were sold to the current owners. Between 1966 and 1967, three new lots (lots 56-58) were created and sold to different owners, which were developed with single-family homes prior to annexation to the City. In 1986, a lot line adjustment was processed to expand a portion of lot 57 and is designated as "59" on the attached exhibit. A detailed overview of property ownership is contained in the applicant's letter to the City Council that is included in Council's packet. Staff's review of this application concluded that the five parcels were created in 1938 prior to the Subdivision Map Act and the City's subdivision ordinance. Per the Subdivision Map Act and based upon the findings, a Certificate of Compliance can be granted to lots 53 and 54. However due to subsequent alterations to lots 51, 52 and 55, the Subdivision Map Act enables the City to issue a Conditional Certificate of Compliance so that caveats can be imposed to ensure orderly development of these lots and that they are consistent with the City's Subdivision Ordinance and development standards. The applicant has reviewed, and is in agreement, with the conditions.

Recommendation: Approve the Certificate of Compliance (P-CC2005-1) for the requested five hillside parcels and to make them legal lots of record based on the findings and special conditions contained in the Council's agenda packet dated September 6, 2005.

3. Consideration of Extension of Urgency Moratorium on the Establishment and Operation of Medical Marijuana Dispensaries to Become Effective Immediately (Staff Contact: Steve Mattas, 586-3040)

Background: At its meeting of August 2, 2005, the City Council adopted an urgency ordinance establishing a 45-day moratorium on the establishment and operation of medicinal marijuana dispensaries within City limits. Under Government Code section 65858, the Council may, by the same four-fifths vote required for adoption of the initial 45-day moratorium, extend the initial interim ordinance for a period of up to 22 months and fifteen days.

As the Council is aware, local regulation of the operation and location of medical marijuana dispensaries is a complicated issue, and state and federal law are not in agreement as to the legality of such facilities. The recent Supreme Court decision on the matter, Gonzales v. Raich, unfortunately provides little guidance for local communities struggling to reconcile these conflicting statutes.

As noted in the first staff report submitted during consideration of the initial 45-day moratorium, Planning staff has received several written and verbal inquiries regarding the land use application process for medical marijuana dispensaries. Although the existence and operation of dispensaries is a relatively new concept and the full scope of the potential impacts of dispensaries is not known, other California communities in which dispensaries have opened have reported the occurrence of such negative secondary impacts as:

- Increased crime in the vicinity of the dispensaries;
- Robbery of patients as they go in or leave the dispensaries;
- A burglary attempt on a dispensary (an additional takeover robbery at a Hayward facility was reported on August 10, 2005)
- Increased DUIs in the vicinity of the dispensaries;
- Increased street dealing in the vicinity of the dispensaries;
- Individuals smoking marijuana in the vicinity of the dispensaries; and
- Reports of impacts on neighboring businesses due to the criminal element being drawn to dispensaries.

Based upon these reports, it is clear that allowing medical marijuana dispensaries within the City continues to pose a risk to the public safety, health and welfare. Planning staff, working in cooperation with the Interim City Manager and the City Attorney's office, have been working to draft an amendment to the zoning ordinance to permit such dispensaries as conditional uses in three zoning districts (HS, M1 & M2) and to provide similar regulations as adult businesses. But the development of a coherent and comprehensive local regulatory framework is a challenging and time-consuming process that will take the Planning Department longer than the 45 day initial period provided for in the statute. The attached ordinance, if passed by a four-fifths majority of the Council, would become effective immediately and extend the moratorium for an additional 22 months and fifteen days, or until July 2, 2007.

Recommendation: Consider the attached urgency ordinance and then:

1. Waive reading beyond the title; and
2. Adopt Ordinance No. 270.1 (pursuant to the provisions of Government Code 65858, the Ordinance extension shall be adopted and become effective immediately without a second reading if it receives a vote of at least four-fifths vote of the Council)

XIV. UNFINISHED BUSINESS

- 4. Receive Status Report On Farmers' Market Location Search (Staff Contact: Cindy Maxwell, 586-3282)**

Background: Staff will provide an update on the search for a new location for the Milpitas Farmers' Market. The potential for use of a public park will also be discussed.

Recommendation: Consider status report and provide direction to staff as appropriate.

XV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Agency Chair/Mayor

RA2. Roll Call

RA3. Approval of Minutes (August 16, 2005)

RA4. Approval of Agenda and Consent Calendar

RA5. Receive Progress Report on Library, Midtown East and West Parking Garages (Project Nos. 8162, 8161, & 8170) (Staff Contact: Mark Rogge, 586-3403)

Background: The architect for the library has completed 50% of the Design Development phase. The architect has completed the conceptual design phase for both the Midtown East and West parking garages. The schematic design phase has begun for the East garage. City and County staff are working on a draft agreement, which will be reviewed and approved by Council, prior to proceeding further with the West garage. Staff will provide a brief presentation on the design progress of these projects.

Recommendation: Note, receive, and file the progress report on the design of the library and the Midtown East and West parking garages.

***RA6. Accept the FY 2005-2006 Final Budget And The 2005-2010 Final Capital Improvement Program (Staff Contact: Emma Karlen, 586-3145)**

Background: Transmitted herewith are the 2005-2006 Final Budget and the 2005-2010 Final Capital Improvement Program incorporating the changes approved by the City Council/Agency during the May 10, 2005 budget hearing. The budget appropriations total \$143,021,842, which includes \$33,402,713 for Capital Projects in the first year of the five-year plan was adopted by the City Council on June 7, 2005.

Recommendation: Note receipt and file.

***RA7. Approve Fiscal Year 2004-05 Year-End Budget Adjustments And The Closure Of Inactive Fund (Staff Contact: Emma Karlen, 586-3145)**

Background: Finance staff is in the process of closing the City and Redevelopment Agency books for Fiscal Year 2004-05. To maintain conformity with the City's budgeting policies and to prepare for the annual external audit, year-end budget adjustments are necessary to address items that were not known at the time the FY 04-05 budget was developed.

All funds, department and project budgets have been reviewed to determine necessary adjustments. A summary of the various budget transfers and appropriations is included.

The overall fiscal impact of the budget adjustments is a net \$1,074,170 reduction to the fund balances of various funds, which includes \$238,470 reduction to the General Fund, \$827,700 to the Redevelopment Agency Project Fund, and \$8,000 to the Abandoned Vehicle Abatement Service Authority (AVASA) Fund. There are sufficient balances in these various funds to support the additional appropriations.

A detailed staff report providing additional information on the budget adjustments is included in the Council/Agency packet along with a budget change form.

It is recommended that Local Improvement District No. 14 Debt Service fund be closed at the end of FY 2004-05: this fund was established to account for the debt service payments of the Local Improvement District No. 14 Assessment Bonds. Since the final payment of the bonds was made in FY 04-05, it is no longer necessary to maintain this fund.

Recommendation:

1. Approve the Fiscal Year 2004-05 year-end budget appropriations and transfers as itemized in the budget change form included in the Agency/Council agenda packet.
2. Approve closure of the Local Improvement District No. 14 Debt Service Fund

RA8. Agency Adjournment

XVI. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES

City Council

- 5. Update On City Manager and New Police Chief Recruitment (Councilmember Polanski, 586-3024)**

Background: Councilmember Polanski has requested an update from the City staff on the status of the recruitment process for a new City Manager and a new Police Chief.

Recommendation: Hear Report of Acting City Manager Lawson.

XVII. NEW BUSINESS

- * 6. Appropriate Funding for Capital Improvement Plan and Accept Valley Transit Authority Grant for Transit Area Plan (Staff Contact: Dennis Carrington 586-3275)**

Background: This project involves the preparation of the Transit Area Specific Plan for the approximately 400-acre area around the light rail and future Montague/Capitol BART stations. The product of this project will be the Transit Area Specific Plan that will regulate land uses for the subject area.

The City of Milpitas received a Community Design and Transportation (CDT) grant from the Santa Clara Valley Transportation Authority (VTA) in the amount of \$150,000. Grant funds will be spent in conjunction with City of Milpitas funds for expenses incurred for consultant services and staff administration in preparation of the Transit Area Specific Plan. The consultant agreement for services with Dyett and Bhatia is \$672,635 and will be made part of this project.

Initially, financing for this project will come from RDA Tax Increment and the VTA CDT Grant and is deemed an appropriate use for these funds. The RDA Tax Increment will be reimbursed by payment of developer fees that have been established by the Council's recent adoption of a cost recovery program. Council approval of this Capital Improvement Project is recommended.

Recommendation:

1. Approve new Capital Improvement Plan Project No. 8177 Transit Area Specific Plan
2. Accept Santa Clara Valley Transit Authority Grant for Transit Area Specific Plan
3. Approve an appropriation of \$150,000 for the VTA CDT grant, \$722,697 from RDA Tax Increment Fund and a \$500,000 reimbursement from developer fees to CIP Project 8177 Transit Area Specific Plan.

XVIII. ORDINANCES

- * 7. **Waive Reading Beyond the Title and Adopt Ordinance No. 239.4 Of Title XI Chapter 16 Sections 16-2, 16-6, and 16-16 Of The Milpitas Municipal Code - Stormwater and Urban Runoff Pollution Control (Staff Contact: Darryl Wong, 586-3345)**

Background: On August 16, 2005, amendments to Ordinance No. 239.4 were introduced to the Council. The amendments adjust definitions, add permanent stormwater pollution prevention measures, add Hydromodification Management Plan requirements, and provide clarification for application of connection fees.

Recommendation:

1. Waive full reading of the ordinance.
2. Adopt Ordinance 239.4 amending Sections 16-2, 16-6, And 16-16 Of Chapter 16, Title XI of The Milpitas Municipal Code - Stormwater And Urban Runoff Pollution Control.

XIX. RESOLUTIONS (None)

XX. BIDS AND CONTRACTS

- * 8 **Award the Bid for a 10 Wheeled Dump Truck (Staff Contact: Chris Schroeder, 586-3161)**

Background: The fiscal year 05/06 budget for Public Works includes the purchase of a Sterling LT 7500 10 Wheel Dump Truck to replace the current worn and obsolete equipment. Only specific Ford dealerships are designated "Class A" and are therefore able to sell this type of Ford Truck. There are only three such dealerships in Northern California, and Purchasing sent bids to all three. Two bids were received and are summarized below, including tax and freight.

	<u>East Bay Ford Truck</u>	<u>Mission Valley Ford Truck</u>
Sterling LT 7500		
Dump Truck	\$79,924.00	\$80,000.00
Tax	6,593.73	6,600.00
Delivery	included	included
Tire Tax	17.50	17.50
Total	<u>\$86,535.23</u>	\$86,617.50

Sufficient funding has been allocated in the FY 05/06 Equipment Replacement Fund and the Public Works Utilities Operating Budget for this purchase.

Recommendation: Award the bid for the Sterling LT 7500 10 Wheel Dump Truck to East Bay Ford Truck Sales, Inc. for the not to exceed amount of \$86,535.23.

- * 9. **Award the Bid for a Gas Powered Jackhammer (Staff Contact: Chris Schroeder, 586-3161)**

Background: The fiscal year 05/06 budget for Public Works includes the purchase of a gas powered jackhammer to replace the current worn and obsolete equipment. Purchasing sent bids to

four vendors on Purchasing's vendor list. Three bids were received and are summarized below, including tax and freight.

	Cobra Combi Gas Powered Jackhammer	
Two R.M.'s	\$5,286.88	
Berntsen Int., Inc	<u>\$4,459.59</u>	
D.L. Thomas	\$4,563.44	(bid withdrawn)

Sufficient funding has been allocated in the Equipment Replacement Fund for this purchase.

Recommendation: Award the bid for the Cobra Combi gas powered jackhammer to Berntsen International. Inc. for the not to exceed amount of \$4,459.59.

*** 10. Award the Bid for Gas Powered Concrete Saw (Staff Contact: Chris Schroeder, 586-3161)**

Background: The fiscal year 05/06 budget for Public Works includes the purchase of a self-propelled gas powered concrete saw to replace the current worn and obsolete equipment. Purchasing sent bids to four vendors on Purchasing's vendor list. Three bids were received and are summarized below, including tax and freight.

	Edward R. Bacon	DRP Inc.	Target Equipment
Target Pro 35 III	\$9,900.00	\$12,043.00	\$10,224.48
18" Diamond Blade	375.00	480.00	538.08
Tax	847.69	1,033.97	887.95
Freight	included	included	included
Total	<u>\$11,122.69</u>	\$13,556.97	\$11,650.51

Sufficient funding has been allocated in the FY 05/06 Equipment Replacement Fund for this purchase.

Recommendation: Award the bid for the gas powered concrete saw to Edward R. Bacon Co., Inc. for the not to exceed amount of \$11,122.65.

*** 11. Award the Bid for a Paint Mixer (Staff Contact: Chris Schroeder, 586-3161)**

Background: The fiscal year 05/06 budget for Public Works includes the purchase of a heavy-duty industrial grade electric paint mixer to replace the current worn and obsolete equipment. Purchasing sent bids to three vendors on Purchasing's vendor list. All three bids were received and are summarized below, including tax and freight.

	Pavement Marking	Modesto Paints	Fluid Management
Gyro Paint Mixer	\$6,526.67	\$4,974.99	\$4,808.00
Tax	538.45	410.44	396.66
Metal Surcharge			91.00
Freight	250.00		190.00
Total	\$7,315.12	\$5,385.43	<u>\$5,485.66</u>

(Bid Withdrawn)

Sufficient funding has been allocated in the FY 05/06 Equipment Replacement Fund for this purchase.

Recommendation: Award the bid for the paint mixer to Fluid Management, Inc. for the not to exceed amount of \$5,485.66.

* 12. **Award the Bid for Annual Vehicle Purchases (Staff Contact: Chris Schroeder, 586-3161)**

Background: In the current fiscal year's budget, there are three new patrol cars and three undercover cars that are scheduled for replacement for the Police Department, as they will exceed specified mileage or years of service according to the MOU. The City is also purchasing three pickup trucks, one for Utilities Maintenance, one for Parks Maintenance, and one for Recreation Services. Purchasing worked with department representatives and Fleet Maintenance staff to develop specifications on the vehicles and bids were sent to thirteen regional and Bay Area Ford dealers on Purchasing's bidders list. Five bids were received and are summarized below:

Make & Quantity	Frontier Ford	Salinas Ford	S&C Ford	Hoblit Motors	Hayward Ford
Crown Victoria (3)	<u>\$74,016.45</u>	\$75,677.28	\$75,540.00	\$74,541.00	\$77,649.45
Taurus SL Sedan (2)	32,914.40	<u>32,815.98</u>	33,020.00	<u>33,274.00</u>	33,098.40
Mustang GT Premium (1)	23,538.85	23,488.99	23,850.00	<u>22,890.00</u>	23,630.85
F-250 Pick-up (2)	31,578.60	<u>31,479.98</u>	34,640.00	34,900.00	34,716.60
F-250 Pick-up box delete (1)	15,257.30	<u>15,207.99</u>	17,035.00	17,030.00	16,826.20
Sub Total	177,305.60	178,670.22	184,085.00	182,635.00	185,921.50
Tax	14,627.71	14,740.29	15,187.01	15,067.39	15,338.52
Freight	450.00				
Tire Fee	78.75	78.75	78.75	78.75	78.75
Total	<u>\$192,462.06</u>	\$193,489.26	\$199,350.76	\$197,781.14	\$201,338.77

Although Frontier Ford is the overall low bidder, the bid was structured such that the City could award on a line item basis, which can reduce the total cost to \$191,193.01, resulting in savings of \$1,269.05. Sufficient funding has been allocated in the FY 05/06 operating budgets for the purchase of the vehicles.

Recommendation: Award the bid for the three (3) Crown Victorias to Frontier Ford in the amount of \$80,299.06 including tax, freight and tire fees. Award the two (2) Taurus SL Sedans and the three (3) F-250 Pick-up Trucks to Salinas Valley Ford in the amount of \$86,106.78 including tax and tire fees, and award the Mustang GT Premium to Hoblit Motors in the amount of \$24,787.18 including tax and tire fees.

* 13. **Appropriate Funds and Award the Bid for Monitors (Staff Contact: Chris Schroeder, 586-3161)**

Background: On August 2, 2005 Council awarded the bid for fifty-nine (59) computers to Surah, Inc. and forty-four (44) monitors to HPM Networks, Inc. based on the recap of the following bids received. However HPM Networks, Inc. defaulted on their bid by shipping lower quality CRT type monitors and not the LCD Flat Panel type monitors specified in the bid. The CRT monitors have been returned and the Purchase Order cancelled. Staff is now asking Council to award the monitors to the next lowest bidder, Surah, Inc.

Bidder	Computer	Monitor	
HPM Networks, Inc.	\$44,550.90	<u>\$8,096.00</u>	Default
NorthBay Networks	\$47,495.00	No Bid	
Surah, Inc.	<u>\$41,281.71</u>	<u>\$14,608.00</u>	
Netis Technology	\$42,952.00	\$15,312.00	
Sysorex	\$42,775.00	\$15,620.00	
ePlus Technology	\$45,291.35	\$14,960.00	
SHI	\$46,669.00	\$14,696.00	
CompUSA, Inc.	\$46,196.41	\$16,499.56	
Miracle Computers, Inc.	\$48,380.00	\$14,740.00	
CBX Technologies, Inc	\$47,760.50	\$15,655.20	
CDW-G	No Bid	No Bid	

The cost for 59 upgraded computers for the Police Department is estimated at \$60,500.61. State Asset Forfeiture funds sufficient to cover this cost are available, however only \$53,451 of these funds were appropriated based on the original award. Based on the next lowest bid, an additional appropriation from the State Asset Forfeiture funds in the amount of \$7,050 is required.

Recommendation: Staff recommends awarding the bid for the forty-four (44) monitors to Surah, Inc. for \$15,813.16 including tax and freight, and approve an additional appropriation from the State Asset Forfeiture funds in the amount of \$7,050.00.

- * 14. **Authorize City Manager To Execute Agreement Amendment: HMH Engineers, South Park Victoria Dr. Pavement Rehabilitation, Project No. 4225 (Staff Contact: Doug DeVries, 586-3313)**

Background: On February 15, 2005, the City Council awarded a consultant contract to HMH Engineers for the design of roadway reconstruction of Park Victoria Boulevard between Calaveras Boulevard and Yosemite Drive between Saratoga and Big Basin Drives. Specifically, the work includes placing rubberized asphalt concrete overlay, full depth asphalt concrete repairs, cold planning, replacement of traffic detector loops, sealing of cracks and replacement of painted markings on South Park Victoria Drive between Calaveras Boulevard and Yosemite Drive and between Saratoga and Big Basin Drives.

Staff recommends that HMH Engineers perform additional services to include design of improvements to Calaveras Boulevard between I-680 ramp east to Park Victoria Drive, Americans with Disability Act (ADA) compliant pedestrian facilities, prepare study and striping plan for installation of bicycle lanes within the project, and other pavement related design tasks. An agreement amendment is proposed for these additional services. Staff has negotiated a scope and fee for these services not to exceed \$38,000, which is considered reasonable for the work. There are sufficient funds in the project budget to cover this additional expense.

Recommendation: Authorize the City Manager to execute the agreement amendment with HMH Engineers, in the amount of \$38,000 subject to approval as to form by the City Attorney.

- * 15. **Approve Authorization For Contract: Ed Fairley's Quality Referee Association (Staff Contact: Aaron Bueno, 586-3226)**

Background: Recreation Services Staff requests the City Council's authorization to approve a contract between the City of Milpitas and Ed Fairley's Quality Referee Association. Ed Fairley's Quality Referee Association is the qualified vendor for providing basketball officials for the City's Adult Basketball Leagues. Ed Fairley's Quality Referee Association will provide certified referees for the 2005-2006 Adult Basketball Leagues.

Approval is requested to authorize a contract for the 2005-2006 fiscal year with Ed Fairley's Quality Referee Association in the amount not-to-exceed \$15,000. Funds were approved by the City Council during the 2005-2006 budget hearing and are available from the Recreation Services Department operating budget for this purpose.

Recommendation: Approve authorization to enter into a contract with Ed Fairley's Quality Referee Association, in the amount not-to-exceed \$15,000, subject to approval as to form by the City Attorney.

- * 16. **Approve Authorization For Contract: South Bay Metro Officials Association (Staff Contact: Aaron Bueno, 586-3226)**

Background: Recreation Services Staff requests the City Council's authorization to enter into a contract with South Bay Metro Officials Association (MOA). The South Bay MOA is the

qualified vendor for providing softball officials for the City's Adult Softball Leagues. South Bay MOA will provide certified umpires for the 2005-2006 Adult Softball Leagues.

Approval is requested to authorize a contract for the 2005-2006 fiscal year with South Bay MOA in the amount not-to-exceed \$15,000. Funds were approved by the City Council during the 2005-2006 budget hearing and are available from the Recreation Services Department operating budget for this purpose.

Recommendation: Approve authorization to enter into a contract with South Bay MOA, in the amount not-to-exceed \$15,000, subject to approval as to form by the City Attorney.

*** 17. Reject Bids and Authorize the Re-Advertisement for Bid Proposals: Sewer Deficiency and Structural Correction Program, Project No. 6073, (Staff Contact: Doug DeVries, 586-3313)**

Background: On July 5, 2005, the City Council approved the project plans and specifications for the subject project and authorized the advertisement for construction bid proposals in accordance with the approved five-year Capital Improvement Program (CIP). The project provides for the replacement of sewer lines due to structural deficiencies, differential settlement, and damaged sewer lines discovered with the City's video inspection program. This phase of the project was to provide for sewer line replacements at 1665 Cortez Street to Cortez Street at Coelho Street, Dixon Road at Conway Street to the Hetch Hetchy right of way, 750 Terra Bella Drive north to Valencia Drive, 791 Valencia Drive to 751 Valencia Drive, Norwich Avenue at Barker Street to Norwich Avenue at Casper Street, Norwich Avenue at Barker Street to 212 Barker Street, 1425 Saturn Ct to end of Court, and Carnegie Drive at Edsel Dr. to Freeland Dr.

The Engineer's estimated construction cost for the work was \$400,000.

The project was advertised for construction bid proposals on July 7, 2005, and sealed bids were subsequently opened on August 5, 2005. The bid proposals ranged from \$568,000 to \$958,895, and the apparent low bidder was K. J. Woods Construction with a bid of \$568,000.

Staff has determined that the discrepancy between the low bid and the engineer's cost estimate is most likely due to an unfavorable bidding environment. Staff recommends the rejection of all bids, and requests authorization to re-advertise the project for bid proposals in early Spring 2006 when a more favorable bidding environment is expected. A staff memo discussing the discrepancy in more detail is included in the Council's agenda packet.

Recommendation:

1. Reject all bids.
2. Approve the re-advertisement of the project for bid proposals.

*** 18. Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals: Montague Widening - Centre Pointe Sidewalk Project, Project No. 4179 (Staff Contact: Greg Armendariz, 586-3317)**

Background: Plans and specifications for the subject project have been completed in accordance with the approved five-year Capital Improvement Program (CIP). The project provides sidewalk and landscaping improvements along Montague Expressway from Centre Pointe Drive to Great Mall Parkway and along Great Mall Parkway from Montague to Centre Pointe Drive.

The Engineer's estimated construction cost for the work is approximately \$90,000, and funds are available in the project budget. A copy of the project plan title sheet is included in the Council's agenda packets. Complete plans and specifications are available for review in the office of the City Engineer.

Recommendation:

1. Approve plans and specifications
2. Authorize advertising for bid proposals.

XXI. CLAIMS AND DEMANDS

*** 19. Approve Payment Requests: Miscellaneous Vendors / Contractors (Staff Contact: Chris Schroeder, 586-3161)**

Background: In accordance with direction given by City Council at its August 15, 1995 meeting, Purchasing has prepared the following list of purchasing requests over \$5,000.00 for approval:

1. \$7,084.97 to Clean Source for a Tennant T3 Fast Technology high-performance Auto Scrubber Model 130946, including battery. This is Sole Source procurement, as the Tennant Company will not allow distributors to bid against each other. (Sufficient funding has been allocated in the FY 05/06 Equipment Replacement Fund for the purchase of this equipment.)
2. \$13,553.93 to SASE Company, Inc. for two (2) SASE SC10E 10" Scarifiers with 10" Tungsten Carbide Tipped Cutter Drums, one (1) Bull65 HEPA Dust Containment Vacuum and two (2) Reinforced 10" Hardened Steel Cutter Drums. This is Sole Source procurement; SASE only sells directly from the manufacturer. (Sufficient funding has been allocated in the FY 05/06 Equipment Replacement Fund for the purchase of this equipment.)
3. \$12,466.97 to the Milpitas Post for payment of the publication of the legal notice for the Sign Code Ordinance 124.27. (Funds are available in the City Clerk Operating Budget for this service.)

Recommendation: Approve the payment requests.

*** 20. Emergency Repairs to the Pump Drive at the Gibraltar Pump Station (Staff Contact: Chris Schroeder, 586-3161)**

Background: Gibraltar Pump Station is located off South Milpitas Boulevard. The site consists of two five million gallon reservoirs and a pump station. The station is operated to provide peak water demand for fire flow in the event of an emergency.

The number two engine that served the pump system has failed and is in need of emergency repairs to bring it back on line. Currently, there is only one engine that serves the SCVWD service area. Staff has received a quote from Peterson Power Systems, the only authorized Caterpillar dealer in this region, to overhaul the engine and bring it back on line for \$50,081.85. This repair was accomplished using the Emergency Power of the Purchasing Agent.

There is sufficient funding in Gibraltar Reservoir & Pump Station Capital Improvement Project, No. 7101 for the repairs.

Recommendation: Authorize the City Manager to execute a contract with Peterson Power Systems in the amount of \$50,081.85, subject to approval as to form by the City Attorney.

XXII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, SEPTEMBER 20, 2005, AT 7:00 PM**